

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Connecticut Department of Public Utility Control)	RM No. 9258
Petition for Rulemaking to Amend the)	
Commission's Rule Prohibiting Technology-)	
Specific or Service-Specific Area Code Overlays)	
)	
Massachusetts Department of Telecommunications)	NSD File No. L-99-17
And Energy Petition for Waiver to Implement a)	
Technology-Specific overlay in the 508, 617, 781,)	
And 978 Area Codes)	
)	
California Public Utilities Commission and the)	NSD File No. 99-36
People of the State of California Petition for)	
Waiver to Implement a Technology-Specific or)	
Service-Specific Area Code)	
)	
North American Numbering Council)	NSD File No. 99-51
Recommendation Concerning Replacement of)	
Central Office Code Utilization Survey)	

**REPLY COMMENTS OF THE
MAINE PUBLIC UTILITIES COMMISSION**

The Maine Public Utilities Commission (MPUC) submits the following comments in further support of its initial Comments in response to the Notice of Proposed Rulemaking in this Number Resource Optimization docket as well as in support of its Petition for Additional Delegated Authority to Implement Number Conservation Measures.¹

¹ MPUC's Petition for Additional Authority to Implement Number Conservation Measures, NSD File No. L-99-27.

I. SUMMARY

Several themes emerged from the comments filed in response to the NPRM:

A. Similarity of state comments.

State comments were remarkably similar, a fact which directly contradicts the Industry's argument that if states are given any additional numbering authority, there will be a patchwork of approaches. Indeed, the "patchwork of approaches" is found not in the states' comments but in the Industry's comments, where there was substantial disagreement regarding, for example, when and how pooling should be rolled out, whether the FCC should adopt binding rules, and whether changes should be made regarding reserved numbers.

B. Industry's failure to adequately safeguard the public interest caused, and continues to necessitate, state involvement in numbering issues.

Many Industry comments implied that states are irresponsibly "meddling" in national issues and claimed that the Industry has acted responsibly and can readily resolve all numbering issues without any regulatory interference. An unbiased assessment of number administration since the passage of the Telecommunications Act of 1996, however, suggests a much different conclusion. First, states did not become involved in numbering issues because they lacked other important issues to address. States became involved when the Industry process failed to take into account the public interest. State involvement became necessary to

ensure that consumers were not subjected to unnecessary inconvenience and costs because the industry could, or would, not adequately police itself or responsibly use public numbering resources.

Second, while the MPUC does not wish to minimize all of the hard work Industry members, working through the North American Numbering Council (NANC), have expended on numbering issues, the MPUC does take issue with claims that these processes efficiently, promptly, and fairly resolve important public issues. If the resolution of an issue depends upon reaching consensus among all the participants, the process is necessarily slowed by the need to negotiate every issue that may impact one or two carriers. While this might be acceptable if we had 10 years to reach a decision, we are, in fact, in the middle of a crisis which demands the expedited resolution of issues that impact the everyday lives of millions of consumers.

C. The FCC should not limit the initial implementation of thousand block pooling to the top 100 MSAs.

States almost uniformly requested that the FCC not limit the initial implementation of thousand block pooling to the top 100 MSAs, but instead provide state commissions with the authority to order pooling in additional areas when the state commission finds it necessary and appropriate.² Indeed, Maine's 207 NPA is outside of the top 100 MSAs,

² See Comments of California, Connecticut, Maine, Massachusetts, New Hampshire, New York, North Carolina, Ohio, Texas, Virginia, Washington, and Wisconsin.

is LNP capable, and could benefit significantly from immediate implementation of pooling. Waiting risks needlessly subjecting the citizens of Maine to the costs and inconveniences of an additional area code.

D. Implementation of thousand block pooling should not be conditioned upon the completion of rate center consolidation.

States, as well as many ILECs and other carriers, recommended that the FCC not condition a state's authority to implement thousand block pooling upon the completion of rate center consolidation (RCC). The reason is clear: in many areas, RCC will take years to complete because of the complex and contentious rate re-balancing which will accompany it. While states continue to be willing to explore this option, they strongly object to it being a condition to implementing measures such as pooling which have already proven to be effective.

E. The FCC should drop its carrier "pick and choose" proposal.

Almost all commenters rejected the FCC's proposal to allow carriers to "pick and chose" the measures they wished to use. The MPUC assumes that this overwhelming response has removed this option from further consideration by the FCC and will not comment further.

II. STATES SHOULD PLAY A SIGNIFICANT ROLE IN NUMBERING POLICY ADMINISTRATION AND ENFORCEMENT.

The comments regarding the level of state involvement on numbering issues, not surprisingly, were split almost exactly along “party” lines: states argued for additional authority, carriers argued for little state authority. The carriers’ comments, however, were long on rhetoric and short on any appreciation of the public interest.

A. States became involved in numbering issues only after it became clear that Industry processes were not considering the public’s interest in numbering policies.

States did not go looking for this issue. Until one year ago, the MPUC had spent very little time on numbering issues, in part because it appeared that whatever was happening at the national level was working. However, in June of 1998, the MPUC was informed that the 207 NPA would exhaust in the second quarter of 2000, information that concerned not only the MPUC but also Maine’s Governor and Congressional delegation. Once the MPUC began looking more closely at the issues, however, it made two important discoveries: (1) the information upon which the exhaust forecast was based was faulty; and (2) there was no shortage of numbers in Maine, just a completely inefficient method of allocating them. In addition, it was clear that the interests of consumers had been given little voice in industry discussions and that MPUC intervention was necessary.

The MPUC did not wait idly for a solution to its problem to appear. The MPUC began actively investigating numbering issues on both a national and state level. What we discovered was disheartening at best and appalling at worst: national numbering policy was being controlled by the very entities which, at a state level, were

causing the premature exhaust of NPAs. While the FCC had plenary jurisdiction over numbering issues, it had effectively delegated most of its decision-making authority to the Industry-controlled NANC and thereby removed, in large part, consideration of the public interest from national numbering policies. The MPUC, charged with protecting the public interest in Maine, was left with no choice but to try to become more involved in the process to ensure that consumers were not being unfairly and unnecessarily subjected to the costs associated with new area codes.

The MPUC's staff has spent thousands of hours on numbering issues in an attempt to achieve a workable, pro-competitive solution to Maine's numbering crisis. At every turn, we encounter resistance from an Industry that claims numbering issues belong at the national level. But progress at the national level has been slow. In September of 1998, MPUC staff attended the monthly meeting of the NANC where it considered a draft of its report to the FCC concerning pooling and other number optimization measures. At that time, Industry claimed that pooling could be implemented within 10 to 19 months of an FCC order and recommended that the FCC issue an order as soon as possible. One year later, we are no further ahead. (In fact, based upon some of the estimates contained in parties' filings, we are further behind.) The FCC has yet to order pooling, more NPAs are facing exhaust, and the Industry has not taken any steps to prepare for the implementation of pooling. This situation is untenable, especially for the states who bear the brunt of a public fed up with wasteful numbering practices.

B. The MPUC's involvement has improved the situation in Maine from both a consumer and industry perspective.

The MPUC cannot speak to specific circumstances in other states. It can, however, speak to its experience in Maine and the impact its involvement has had on the crisis in our state. Many of the measures suggested by the FCC in its NPRM are already being implemented in Maine: conservation of thousand blocks through sequential numbering, exploration of rate center consolidation, requiring proof of readiness for issuance of initial codes, and reporting of number utilization data by rate center on a thousand block level. The MPUC has been very active in numbering issues for more than a year and has yet to receive one complaint from any carrier regarding denial of access to numbering resources, lack of competitive neutrality, or overly burdensome requirements.

The MPUC's efforts have resulted in several important developments. Through the MPUC's oversight of the NXX code assignment process and the CLEC certification process, it has saved more than 80 codes. Further, by ordering carrier participation in the 1999 COCUS study, a more accurate forecast was issued which extended the life of the NPA by over a year and a half. **Indeed, if the MPUC had not become involved in numbering issues, permissive dialing would already be in place for a new area code that is now not forecasted to be needed for two more years.** (If thousand block pooling and unassigned number portability were available, the date for the new area code could be extended indefinitely.)

Thus, the FCC should ignore AT&T's false claims that:

There is no evidence that any state commission is in a better position than the Commission to act quickly on number

optimization mechanisms or that such measures would be effective when a code is at or near exhaust...

Experience has demonstrated, however, that attempts to avoid implementing NPA relief in the hope that rationing and other conservation measures will obviate the need to implement such relief are sorely misguided.

AT&T at 8. Similarly inaccurate is Sprint's contention that the "imposition of new conservation measures will not obviate the need to adopt relief for most of these area codes." Sprint at 4. The simple truth is that state involvement, and in particular the MPUC's involvement, with numbering issues has furthered both the public's interest in no new unnecessary area codes and the Industry's interest in continued access to numbering resources.

Accordingly, the MPUC respectfully requests that the FCC adopt rules and policies which provide state commissions with sufficient authority over numbering issues to ensure that carriers operating within their states comply with federal rules and policies and that the public's interest in avoiding unnecessary expense and confusion is protected. The MPUC also requests that the FCC immediately delegate authority to states to implement conservation measures without further delay.

III. THE FCC SHOULD ALLOW STATES TO IMPLEMENT THOUSAND BLOCK POOLING OUTSIDE OF THE TOP 100 MSAs.

Most parties agree on one issue: thousand block pooling provides the best opportunity to escape the current numbering crisis. The disagreements lie in the

questions of when and where pooling should be implemented and whether state commissions will play a role in the decision to implement pooling within their states.

The MPUC, along with most other states and many of the carriers, disagrees with the proposal that pooling should only be initially implemented in the top 100 MSAs. The MPUC strongly urges the FCC to reject this limitation and either: (1) issue a rule which provides flexibility to states to order pooling outside of the top 100 MSAs; or (2) grant the MPUC's request for delegated authority based upon state-specific circumstances.

A. The specific circumstances in Maine warrant the immediate implementation of thousand block pooling.

NANPA currently forecasts that the 207 NPA will exhaust in the fourth quarter of 2001. Assuming an abbreviated implementation schedule, permissive dialing must begin sometime in early 2001. Thus, pooling would need to begin no later than January 1, 2001. Given current industry estimates regarding the time needed to implement pooling, which range from 9 months to 36 months, an order regarding pooling must be issued immediately if it is to help Maine. If the top 100 MSAs proposal is adopted, Maine will likely be in the second "wave" of implementation and a second area code will need to be added to Maine despite the fact that there are more than 5 million unused numbers within the 207 area code. This would be an unacceptable result.

Maine is one of only 11 states left in the United States with only one area code,³ and the only one-area code state without a top 100 MSA with an NPA scheduled

³ Alaska, Delaware, Hawaii, Idaho, Maine, New Hampshire, North Dakota, Rhode Island, Vermont, West Virginia, and Wyoming.

to exhaust between the second quarter of 2001 and the fourth quarter of 2003.⁴ While Maine does not have any top 100 MSAs within its boundaries,⁵ all of its non-rural exempt rate centers will be LNP-capable on August 30, 1999. In addition, there currently are 1161⁶ uncontaminated thousand blocks within the LNP-capable rate centers.

Using a CLEC profile developed by examining CLEC and wireless carrier entry in Maine as well as NANPA's COCUS forecast for the 207 NPA, the MPUC has determined that if pooling had been in place beginning January 1, 1999, 29 of the 34 CLEC codes assigned this year would have been saved (if UNP were also available, all 34 codes would have been saved). Further, if a pool were created today with only completely uncontaminated blocks, 15 new CLECs could enter Maine in the ten most frequently requested rate centers and no new codes would need to be assigned. Given the fact that NANPA currently forecasts the entry of only two new carriers per year and the use of only seven codes per carrier, pooling would effectively delay the need for a new area code for 3-5 years. If UNP were also available, Maine's ability to serve its entire population with a single area code would be extended even further, allowing time for the development of truly efficient number allocation methods (such as individual number pooling) that would extend the "exhaust" date indefinitely.

B. Schedule for implementation of thousand block pooling.

⁴ This time frame is especially critical because area codes scheduled to exhaust prior to second quarter 2001 may not have time to implement pooling, while those scheduled after fourth quarter 2003 may have a longer window of opportunity.

⁵ This is not the case in Delaware, Hawaii, and Rhode Island.

⁶ This estimate is based upon data provided by carriers in March-April 1999 as well as the assumption that new CLECs use only one thousand block of the codes they have been assigned but not yet put into service.

Several carriers suggested schedules for rolling out thousand block pooling, including AT&T and MCI. Many of the carriers' schedules depend upon the availability of NPAC version 3.0, which currently is scheduled to be released by NPAC in June of 2000. After 3.0 is released, some time must be allotted for carrier testing of the software, which carriers currently claim will take three to six months. While the MPUC still believes that pooling with version 1.4 would be possible and not too costly, especially in states like Maine, and could be operational within six months, if the FCC mandates the use of 3.0 only, we propose the following schedule:

October 1999	FCC Order requiring the implementation of thousand block pooling beginning January 1, 2001, and specifically requires all carriers to complete all necessary changes to internal operating systems to accommodate pooling by October 2000. (If carriers complete testing of the software in less than six months, pooling should begin earlier.) In addition, the FCC would require sequential numbering and other measures to preserve uncontaminated thousand blocks.
June 2000	NANPA begins creating pools in NPAs in all top 100 MSAs as well as any other NPAs scheduled to exhaust between first quarter 2001 and fourth quarter 2002.
November 2000	Carriers update all pooling information so that NANPA will be ready to administer pools beginning January 1, 2001.
January 2001	Begin implementation of pooling in top 100 MSAs plus other NPAs scheduled to exhaust between first quarter 2001 and fourth quarter 2003. (Currently, there are approximately 25 such NPAs, including the 207 NPA.)

The specific schedule will be based upon projected exhaust dates, NPAs with the earliest projected exhaust dates will go first. Industry, NANPA and states would work cooperatively to set the schedule. Assuming there are approximately 125 NPAs within the top 100 MSAs, pooling would be available in all 150 NPAs (125 within top 100 MSAs plus the 25 other NPAs projected to exhaust before fourth quarter 2002) by the end of 2001 if 12-13 NPAs were turned up per month.⁷

The MPUC believes that the proposed schedule can be met if, and only if, the FCC sends a strong, clear message to the Industry that pooling will be a reality beginning January 1, 2001, and that carriers had better start preparing for that eventuality right now. This schedule goes a long way in accommodating Industry's claimed needs for additional time to modify its systems and, in fact, allows for six months of software testing. While the MPUC strongly believes that carriers could and should be ready to pool much earlier and do not need a full six months to test software, we can work under our proposed schedule if the FCC mandates carrier compliance with the deadlines contained in the proposed schedule.

IV. THE IMPLEMENTATION OF THOUSAND BLOCK POOLING SHOULD NOT BE CONDITIONED UPON STATE COMPLETION OF RATE CENTER CONSOLIDATION.

All of the state commissions, most ILECs, and many other carriers objected to the FCC's proposal to condition a state's authority to implement thousand block pooling

⁷ The numbers used in this example are approximations and require further analysis, especially with regard to whether a particular NPA is considered part of a particular MSA. The numbers assume that all NPAs within MSAs would get pooling, even if the code is not projected to exhaust until after 2002. This assumption might be able to be modified to accommodate speedier implementation in areas which have earlier projected exhaust dates. Finally, the assumptions used in this schedule are based upon the projected exhaust dates contained in NANPA's May 1999 COCUS report.

upon the completion of rate center consolidation (RCC). Contrary to the comments of parties like PCIA that RCC is the “lowest cost of all proposals” and can be immediately implemented “with little impact on most industry players,”⁸ it is clear that RCC may require lengthy, complex, and contentious proceedings to resolve the rate re-balancing issues that arise when local calling areas are modified. As GTE noted, “Final decision on local RCC implementation should remain under the authority of state commissions because of the impact on local rates, intercarrier compensation, and calling patterns.” GTE at 33. Further, as AT&T noted, “RCC efforts must balance the short term gains to be achieved through reductions in the number of rate centers in which the codes are required against the longer term implications of RCC for area code relief measures.” AT&T at 34. Finally, as AT&T also pointed out, RCC must be implemented in a manner “which minimizes negative effects on markets where competition is emerging.” AT&T at 33.

In Maine, we asked our Industry Task Force to study RCC and make a recommendation regarding how it might be implemented. On December 23, 1998, the Task Force presented the MPUC with a report stating, “While RCC affecting local calling areas would have the greatest impact on the exhaust of the 207 NPA, there are significant complications concerning Maine’s unique BSCA [basic service calling area] Rules which may outweigh the benefit to the State.” The Task Force then requested additional information from the MPUC and NANPA regarding patterns of CLEC entry, NXX forecasts, and other data which would be used to determine whether the consumer disruption and costs would outweigh the potential code savings. The MPUC intends to

⁸ PCIA at 20.

work with the Industry over the next six months to develop the information necessary to complete the Task Force's analysis.

Thus, while the MPUC recognizes that RCC is a tool we will use if we can, it is important that we not be required to complete RCC before using any other number conservation tools such as thousand block pooling and unassigned number porting.

V. THE FCC SHOULD ISSUE BINDING RULES AND SHOULD NOT RELY SOLELY UPON INDUSTRY-SPONSORED GUIDELINES.

States almost uniformly advocated that the FCC adopt binding rules rather than rely upon Industry guidelines. The reason is clear: neither the guidelines themselves nor the process for enforcing those guidelines is working. While parties like AT&T and USTA baldly claim that the "existing guidelines are especially effective," and that the guidelines are a "shining example of where the industry-wide process is yielding a superior result,"⁹ the first-hand experience of the MPUC confirms that the guidelines are not effective.

To be more specific, carriers obtain numbering resources in violation of the Guidelines without consequence. In Maine, prior to the MPUC's participation in the code assignment process, a new CLEC obtained 15 codes from NANPA despite the fact that it did not yet have a valid interconnection agreement. Another carrier requested, and would have been granted had the MPUC not intervened, multiple codes in a single center where it already had several codes that had a combined utilization rate of less than 25%. Although both of these incidents violate the current guidelines, they did not generate any enforcement activity by NANPA because there is little NANPA can do under the current arrangement.

Even if NANPA believes that a carrier is violating the guidelines and that action should be taken, the steps that must be completed before action can occur take months to accomplish. This lack of timely and authoritative action makes the guidelines completely ineffective and severely hampers NANPA's ability to fulfill its duties. If the FCC adopts changes to the guidelines but does not make them binding rules or provide for their enforcement by NANPA and/or state commissions, nothing will be gained.

AT&T also claims that "experience shows that the NANC can resolve complex policy issues thereby facilitating the Commission's numbering policies." AT&T 10. While the NANC certainly has substantially contributed to the development of many positive national numbering policies, the NANC has been hampered by a process which requires consensus and which relies upon the voluntary efforts of carriers whose competitive agendas often obstruct the speedy and fair resolution of matters. This is not surprising or particularly disturbing; it is the reality associated with the transition to a competitive marketplace. What would be surprising and disturbing is the FCC leaving the NANC in charge of establishing national numbering policies and enforcing those policies through non-binding guidelines. Such a system is unworkable in the new competitive marketplace and will only lead to further wasting of public numbering resources and the premature exhaust of the NANP.

VI. THE FCC SHOULD REQUIRE CARRIERS TO PARTICIPATE IN STATE-SPONSORED UNASSIGNED NUMBER PORTABILITY PROGRAMS.

The MPUC urges the FCC to require carriers to participate in state-sponsored unassigned number portability programs (UNP) so that the millions of stranded numbers

contained in contaminated thousand blocks can be more efficiently used and thereby slow the pace of NPA exhaust. As MCI points out in its comments, “UNP can be implemented prior to pooling, provides substantial competitive benefits and allows access to numbering resources that pooling alone would strand in carrier inventories.” MCI at 17.

A majority of most CLEC customers will be already existing ILEC customers who will port their number to the CLEC via LNP. Thus, there will be a limited need for actual new CLEC numbers to serve their customers; second lines and new construction will generate most of any such demand. Given that the small population in many Maine rate centers will not support the need for even a thousand block, let alone a full 10,000 block, to meet the demand, UNP would be especially effective in Maine. Indeed, one CLEC has already proposed such a program and the ILEC has indicated that it would be feasible if the Commission resolves certain administrative and financial matters.

As the MPUC indicated in its discussion of thousand block pooling, UNP could substantially further number conservation in Maine. If UNP were already in place, at least 20 codes could have been saved this year alone; that number will grow as new carriers enter different rate centers and as existing carriers expand their footprints. Such savings would only be realized, however, if all carriers were required to participate in such a program – otherwise carriers will likely just continue to request their own NXXs even if they only use very few numbers. Thus, the MPUC urges the FCC to delegate to the states the authority to implement UNP within their jurisdiction as well as the authority to require carrier participation in any such UNP program.

VII. CONCLUSION

For the reasons explained above, the MPUC urges the FCC to issue an interim order requiring implementation of thousand block pooling as soon as possible without conditioning its implementation upon completion of rate center consolidation, delegate interim authority to states to implement the administrative measures discussed in the NPRM, including unassigned number portability, and issue final, binding administrative rules and procedures applicable to all carriers.

Respectfully submitted,

MAINE PUBLIC UTILITIES COMMISSION

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Certificate of Service

I, Trina M. Bragdon, certify that on this day the Maine Public Utilities Commission's Reply Comments were served via first-class mail to the persons on the attached service list.

Trina M. Bragdon

Dated: August 27, 1999